

### **REMARKS/ARGUMENTS**

The present Amendment is being filed in response to the first Official Action on a Request for Continued Examination (RCE). The first Official Action rejects Claims 1-5, 7-11, 14-18, 20, 22-26, 29-33, 35,<sup>1</sup> 37-41, 44-48, 50, 52-56 and 59 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0133923 to Watson et al., in view of U.S. Patent No. 7,284,064 to Connelly. The Official Action also rejects Claims 6, 12, 13, 21, 27, 28, 36, 42, 43, 51, 57 and 58 under 35 U.S.C. § 103(a) as being unpatentable over Watson in view of Connelly, and further in view of U.S. Patent Application Publication No. 2003/0066090 to Traw et al. As explained below, Applicants again respectfully submit that the claimed invention is patentably distinct from Watson, Connelly and Traw, taken individually or in any proper combination. Nonetheless, Applicants have amended various ones of the claims to further clarify the claimed invention. These amendments include cancellation of system Claims 1-14, and presentation of new system Claims 60-73. In view of the amendments to the claims and the remarks presented herein, Applicants respectfully request reconsideration and allowance of all of the pending claims of the present application.

#### ***A. Consideration of Previously-Submitted Information Disclosure Statement***

Applicants once again note that an initialed copy of the PTO Form 1449 that was submitted with Applicants' Information Disclosure Statement filed October 31, 2003, has not been returned to Applicants' representative. Accordingly, it is requested that an initialed copy of the Form 1449 be forwarded to the undersigned with the next communication from the PTO.

#### ***B. Claims 1-5, 7-11, 14-18, 20, 22-26, 29-33, 35, 37-41, 44-48, 50, 52-56 and 59***

The Official Action rejects Claims 1-5, 7-11, 14-18, 20, 22-26, 29-33, 35, 37-41, 44-48, 50, 52-56 and 59 as being unpatentable over Watson et al., in view of Connelly. According to one aspect of the present invention, as reflected by amended independent Claim 15, an apparatus is provided that includes a processor and a memory storing executable instructions that in

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<sup>1</sup> The Official Action references Claim 36 on page 2, but Applicants believe this is a typographical error, and instead should reference Claim 35.

response to execution by the processor cause the apparatus to at least perform a number of functions. As recited, these functions include storing, in the memory, at least one piece of pre-broadcast content. The pre-broadcast content is stored before a scheduled time for broadcast of the same piece(s) of content by a content source, and the scheduled time is specified by a schedule. As also recited, the functions include accessing at least one piece of pre-broadcast content from the memory no sooner than the scheduled time for broadcast of the same piece(s) of content, and presenting the accessed piece(s) of pre-broadcast content consistent with the scheduled time for broadcast of the same piece(s) of content by the content source.

### **1. Broadcast Schedule**

Generally, in contrast to amended independent Claim 15, none of Watson, Connelly or Traw, taken individually or in any proper combination, teaches or suggests an apparatus storing but not accessing pre-broadcast content before a scheduled time for broadcast of the same content by a content source, and presenting the pre-broadcast content consistent with that scheduled time. More particularly, in contrast to amended independent Claim 15, none of Watson, Connelly or Traw, taken individually or in any proper combination, teaches or suggests an apparatus for providing broadcast content whereby a schedule includes a scheduled time for not only broadcasting the content by its source, but also constraining access to the same (pre-broadcast) content from memory of a terminal that previously stored the pre-broadcast content.

As previously explained, Watson discloses a digital home movie library for an on-demand movie service. And in this regard, Watson may disclose a digital asset management system that schedules when a movie is to be transmitted to a set-top box. Nonetheless, Watson does not teach or suggest that a previously stored movie is accessed from memory of the set-top box in no sooner than a scheduled broadcast time of that movie, similar to the pre-broadcast content of amended independent Claim 15. Watson also discloses setting a start date at which time a transmitted movie may be accessed from the set-top box. Even given this disclosure, however, this start date does not correspond to a scheduled time for broadcast of that movie, similar to the scheduled time of amended independent Claim 15.

The Official Action now cites Connelly for allegedly disclosing storing pre-broadcast content before a scheduled time for broadcast of the same content, and accessing the pre-broadcast content from memory no sooner than the scheduled time for broadcast of the same content. To the contrary, however, Applicants respectfully submit that like Watson, Connelly also does not teach or suggest these features of amended independent Claim 15.

Briefly, Connelly discloses a system including a server for broadcasting meta-data to a plurality of clients, where the meta-data describes data files that are to be later broadcast or potentially broadcast by the server. A client receives the meta-data, and based on the meta-data as well as previous access habits of the user and optional user classifications, selectively receives and/or stores the later-broadcast data files. Connelly therefore discloses a client storing meta-data before broadcast of content described by the meta-data. Amended independent Claim 15, on the other hand, recites storing content before the scheduled time for broadcast of the same content. And to the extent that one may argue that Connelly stores meta-data, nowhere does Connelly disclose that its meta-data is stored before the scheduled time for broadcast of the same meta-data (i.e., the same content), similar to amended independent Claim 15.

## **2. Access from Memory as Content Broadcast**

In further contrast to amended independent Claim 15, none of Watson, Connelly or Traw, taken individually or in any proper combination, teaches or suggests an apparatus for providing broadcast content, whereby the apparatus receiving and storing (in memory) pre-broadcast content accesses that content (from memory), presents the content consistent with the scheduled time for broadcast of the same content by a content source. The Official Action also cites Connelly for allegedly disclosing this feature of the present invention. Applicants respectfully submit, however, that Connelly does not in fact disclose accessing content from memory of an apparatus consistent with the scheduled time for broadcast of the same content by a content source. Connelly may disclose receiving meta-data consistent with the schedule for broadcast of the meta-data, but receiving meta-data consistent with the broadcast schedule of the same meta-data is not the same as accessing content from memory consistent with the broadcast schedule of the same content, similar to amended independent Claim 15.

Applicants therefore respectfully submit that amended independent Claim 15, and by dependency Claims 16-18 and 20-29, is patentably distinct from Watson and Connelly, taken individually or in any proper combination. Applicants also respectfully submit that amended, previously presented or new independent Claims 30, 45 and 60 recite subject matter similar to that of amended independent Claim 15, including the aforementioned schedule, and presenting content (accessed from memory) as that same content consistent with the scheduled time for broadcast of the same content by a content source. As such, Applicants respectfully submit that amended or previously presented independent Claims 30, 45 and 60, and by dependency Claims 31-33, 35-44, 46-48, 50-59 and 61-73, are also patentably distinct from Watson and Connelly, taken individually or in any proper combination, for at least the reasons given above with respect to independent Claim 15.

For at least the foregoing reasons, Applicants respectfully submit that the rejection of Claims 1-5, 7-11, 14-18, 20, 22-26, 29-33, 35, 37-41, 44-48, 50, 52-56 and 59 as being unpatentable over Watson, in view of Connelly is overcome (or rendered moot by virtue of the cancellation of Claims 1-14.

***C. Claims 6, 12, 13, 21, 27, 28, 36, 42, 43, 51, 57 and 58***

The Official Action rejects Claims 6, 12, 13, 21, 27, 28, 36, 42, 43, 51, 57 and 58 as being unpatentable over Watson in view of Connelly, and further in view of Traw. As explained above, amended, previously presented or new independent Claims 15, 30, 45 and 60, and by dependency Claims 16-29, 31-44, 46-59 and 61-73, are patentably distinct from Watson and Connelly, taken individually or in any proper combination. Applicants respectfully submit that Traw does not cure the deficiencies of Watson and Connelly. That is, even considering Traw, none of Watson, Connelly or Traw, taken individually or in any proper combination, teaches or suggests the aforementioned schedule, and presenting content (accessed from memory) consistent with the scheduled time for broadcast of the same content, as per independent Claims 15, 30, 45 and 60. Applicants therefore respectfully submit that independent Claims 15, 30, 45 and 60, and by dependency Claims 16-29, 31-44, 46-59 and 61-73, are patentably distinct from Watson in view of Connelly, and further in view of Traw.

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For at least the foregoing reasons, Applicants submit that the rejection of Claims 6, 12, 13, 21, 27, 28, 36, 42, 43, 51, 57 and 58 as being unpatentable over Watson in view of Connelly, and further in view of Traw, is overcome.

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### **CONCLUSION**

In view of the amendments to the claims and the remarks presented herein, Applicants respectfully submit that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicants' undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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